

ASSEMBLY BILL

No. 477

Introduced by Assembly Member Chau

February 19, 2013

An act to amend Section 15630.1 of the Welfare and Institutions Code, relating to elder and dependent adult abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 477, as introduced, Chau. Elder and dependent adult abuse: mandated reporting.

Existing law, the Financial Elder Abuse Reporting Act of 2005, establishes procedures for the reporting of suspected financial abuse of an elder or dependent adult, as defined. These procedures require mandated reporters of suspected financial abuse of an elder or dependent adult, as defined, to report known or suspected instances of financial abuse of an elder or dependent adult. Existing law makes a violation of the reporting requirements subject to a civil penalty.

This bill would include notaries public in the definition of mandated reporters of suspected financial abuse of an elder or dependent adult.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 15630.1 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 15630.1. (a) As used in this section, “mandated reporter of
- 4 suspected financial abuse of an elder or dependent adult” means

1 all officers and employees of financial institutions *and notaries*
2 *public*.

3 (b) As used in this section, the term “financial institution” means
4 any of the following:

5 (1) A depository institution, as defined in Section 3(c) of the
6 Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

7 (2) An institution-affiliated party, as defined in Section 3(u) of
8 the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).

9 (3) A federal credit union or state credit union, as defined in
10 Section 101 of the Federal Credit Union Act (12 U.S.C. Sec. 1752),
11 including, but not limited to, an institution-affiliated party of a
12 credit union, as defined in Section 206(r) of the Federal Credit
13 Union Act (12 U.S.C. Sec. 1786(r)).

14 (c) As used in this section, “financial abuse” has the same
15 meaning as in Section 15610.30.

16 (d) (1) Any mandated reporter of suspected financial abuse of
17 an elder or dependent adult who has direct contact with the elder
18 or dependent adult or who reviews or approves the elder or
19 dependent adult’s financial documents, records, or transactions,
20 in connection with providing financial services *or notary services*
21 with respect to an elder or dependent adult, and who, within the
22 scope of his or her employment or professional practice, has
23 observed or has knowledge of an incident, that is directly related
24 to the transaction or matter that is within that scope of employment
25 or professional practice, that reasonably appears to be financial
26 abuse, or who reasonably suspects that abuse, based solely on the
27 information before him or her at the time of reviewing or approving
28 the document, record, or transaction in the case of mandated
29 reporters who do not have direct contact with the elder or dependent
30 adult, shall report the known or suspected instance of financial
31 abuse by telephone or through a confidential Internet reporting
32 tool, as authorized pursuant to Section 15658, immediately, or as
33 soon as practicably possible. If reported by telephone, a written
34 report shall be sent, or an Internet report shall be made through
35 the confidential Internet reporting tool established in Section
36 15658, within two working days to the local adult protective
37 services agency or the local law enforcement agency.

38 (2) When two or more mandated reporters jointly have
39 knowledge or reasonably suspect that financial abuse of an elder
40 or a dependent adult for which the report is mandated has occurred,

1 and when there is an agreement among them, the telephone report
2 or Internet report, as authorized by Section 15658, may be made
3 by a member of the reporting team who is selected by mutual
4 agreement. A single report may be made and signed by the selected
5 member of the reporting team. Any member of the team who has
6 knowledge that the member designated to report has failed to do
7 so shall thereafter make that report.

8 (3) If the mandated reporter knows that the elder or dependent
9 adult resides in a long-term care facility, as defined in Section
10 15610.47, the report shall be made to the local ombudsman or local
11 law enforcement agency.

12 (e) An allegation by the elder or dependent adult, or any other
13 person, that financial abuse has occurred is not sufficient to trigger
14 the reporting requirement under this section if both of the following
15 conditions are met:

16 (1) The mandated reporter of suspected financial abuse of an
17 elder or dependent adult is aware of no other corroborating or
18 independent evidence of the alleged financial abuse of an elder or
19 dependent adult. The mandated reporter of suspected financial
20 abuse of an elder or dependent adult is not required to investigate
21 any accusations.

22 (2) In the exercise of his or her professional judgment, the
23 mandated reporter of suspected financial abuse of an elder or
24 dependent adult reasonably believes that financial abuse of an
25 elder or dependent adult did not occur.

26 (f) Failure to report financial abuse under this section shall be
27 subject to a civil penalty not exceeding one thousand dollars
28 (\$1,000) or if the failure to report is willful, a civil penalty not
29 exceeding five thousand dollars (\$5,000), which shall be paid by
30 the financial institution that is the employer of the mandated
31 reporter *or the notary public* to the party bringing the action.
32 Subdivision (h) of Section 15630 shall not apply to violations of
33 this section.

34 (g) (1) The civil penalty provided for in subdivision (f) shall
35 be recovered only in a civil action brought against the financial
36 institution *or the notary public* by the Attorney General, district
37 attorney, or county counsel. No action shall be brought under this
38 section by any person other than the Attorney General, district
39 attorney, or county counsel. Multiple actions for the civil penalty
40 may not be brought for the same violation.

1 (2) Nothing in the Financial Elder Abuse Reporting Act of 2005
2 shall be construed to limit, expand, or otherwise modify any civil
3 liability or remedy that may exist under this or any other law.

4 (h) As used in this section, “suspected financial abuse of an
5 elder or dependent adult” occurs when a person who is required
6 to report under subdivision (a) observes or has knowledge of
7 behavior or unusual circumstances or transactions, or a pattern of
8 behavior or unusual circumstances or transactions, that would lead
9 an individual with like training or experience, based on the same
10 facts, to form a reasonable belief that an elder or dependent adult
11 is the victim of financial abuse as defined in Section 15610.30.

12 (i) Reports of suspected financial abuse of an elder or dependent
13 adult made by an employee or officer of a financial institution
14 pursuant to this section are covered under subdivision (b) of Section
15 47 of the Civil Code.